

REMARKS

This paper is in response to the Office Action dated October 2, 2008. Claims 1 – 7 are in the application.

Applicants affirm the election of species.

With respect to the information disclosure, Applicants note that the references listed on the 1449 form provided with the June 2005 IDS were cited in the international stage search report and are of record in the instant § 371 application; accordingly, copies were not provided. The Examiner is respectfully requested to consider such references and to complete the record by initialing and dating the 1449 form.

Applicants respectfully traverse the § 103 rejection of claims 1 – 18 (*sic* 1 – 7?) as being unpatentable over GB 1,160,648.

At the outset, Applicants note with appreciation that the Examiner has found the elected species to be allowable.

With respect to GB 1,160,648, Applicants respectfully submit that the disclosure of the '648 publication relates to acyclic nitrazones which bear no relationship to the cyclic herbicides of formula (I) in accordance with the presently claimed invention.

On page 8 of the Office Action, the Examiner asserts that the specification only discloses the method of making and using the compounds wherein R₁ represents a biphenyl group. However, Applicants are puzzled by this statement as no specific examples of compounds wherein R₁ is a biphenyl group are provided in the specification.

The fundamental point regarding the subject matter of the present invention is that the compounds of formula I (such as the allowable compound 1.0301) on page 52 are structurally distinct from the compounds of the cited reference. One of ordinary skill in the art would have no reasonable expectation that the acyclic nitrazones of GB 1,160,648 could be modified as suggested by the Examiner.

Accordingly, it is submitted that the claims are not obvious in view of the prior art reference cited by the Examiner. Reconsideration and withdrawal of the § 103 rejection of claims 1 – 7 are respectfully requested.

In view of the foregoing amendments and remarks, Applicants submit that the subject matter of the claims is patentable and that such claims are in condition for allowance. Reconsideration and withdrawal of all rejections are respectfully requested, along with the issuance of a Notice of Allowance.

Respectfully submitted,

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